

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Jack Charon,

Case No. 20-CV-2112 (ECT/HB)

Plaintiff,

v.

REPORT AND RECOMMENDATION

U.S. Drug Enforcement Administration
(DEA),

Defendant.

On October 21, 2020, this Court reviewed plaintiff Jack Charon’s complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) and concluded that Charon had failed to state a claim on which relief may be granted. [See ECF No. 4.] Charon had alleged that a seizure of money from him by federal agents amounted to a violation of his federal constitutional rights. (See Compl. [ECF No. 1].) Claims of constitutional violations by federal agents may be brought pursuant to *Bivens*¹ against the specific agent or agents alleged to have committed the misconduct. A *Bivens* action may not, however, be brought against a federal agency, such as the U.S. Drug Enforcement Administration (“DEA”), the lone defendant named by Charon to this action. See *F.D.I.C. v. Meyer*, 510 U.S. 471, 486 (1994). Because Charon could not proceed with claims of constitutional violations against the DEA, the Complaint did not contain a viable claim for relief.

¹ See *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971).

Rather than recommend dismissal of this action at that time, this Court afforded Charon an opportunity to file an amended complaint within 45 days. This Court also referred Charon to the Pro Se Project of the Federal Bar Association for the possible assistance of a volunteer attorney in drafting the amended complaint. [See ECF No. 5.] The deadline has now passed, though, and Charon has not yet filed an amended complaint. In fact, Charon has not communicated with the Court at all since filing this action. Accordingly, consistent with this Court's prior order, it is now recommended that this action be dismissed without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B).

RECOMMENDATION

Based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED THAT:**

1. This matter be **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B).
2. The application to proceed *in forma pauperis* of plaintiff Jack Charon [Doc. No. 2] be **DENIED**.

Dated: December 17, 2020

s/ Hildy Bowbeer
Hildy Bowbeer
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).